THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 18793 OF 2000

Dated: 26-10-2005

Between:

Mr. M.Radha Naidu ..Petitioner

A N D

Bank of Baroda, Hyderabad …Respondent

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 18793 OF 2000

O R D E R :

1. This Writ Petition has been filed by Mrs. M.Radha Naidu with a prayer to issue writ, direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in not releasing the documents deposited by her as collateral security towards the loan granted in respect of Paramatma Poultry Farm as

illegal and arbitrary.

2. The facts of the case giving rise to filing of this writ petition in brief are: M.Aravind Naidu who is husband of the writ petitioner was the proprietor of M/s Paramatma Poultry Farm. He obtained loan from the respondent Bank for establishing Paramatma Poultry Farm. The petitioner offered her properties as collateral security for the loan granted to the poultry farm of her husband. She deposited title deeds of her land bearing Survey Nos. 200 and 216 admeasuring 0-09 guntas and Ac. 2-31 guntas respectively as security for the loan granted to the poultry farm. The respondent Bank filed O.S.No.15 of 1993 on the file of the Additional Senior Civil Judge, Ranga Reddy District for recovery of the outstanding loan amount. She was one of the defendants in the said suit. Her husband died in 1993. Subsequently, the suit was transferred to Debt Recovery Tribunal, Bangalore. While proceedings were pending before the Debt Recovery Tribunal, Bangalore, a compromise was affected and entire amount was paid and consequently suit came to be withdrawn. The petitioner submitted representations to the respondent Bank for release of the title deeds deposited by her as collateral security, since the suit ended in withdrawal. Legal notices were also issued on 27-1-1997 and 5-11-1998. Since, the request of the petitioner is not complied with by the respondent Bank, she has chosen to approach this Court by invoking jurisdiction under Article 226 of the Constitution of India.

3. Respondent Bank filed counter affidavit. One L.Bhaskar Sharma has sworn to the counter affidavit. It is stated in the counter affidavit that loan amount has been cleared by Pioneer Farms limited consequent on the borrower-M/s Paramathma Poultry Farm transferring its entire assets. It is further stated in the counter affidavit that the consent of the Pioneer Farm is required for release of the documents. I deem it appropriate to refer para 10 of the counter affidavit and it is thus:

> "*It is submitted that in reply to para 9 of the writ affidavit the petitioner has never approached the respondent bank requesting for any details of the loan account. It is submitted that the question of furnishing any details of the account does not arise since the petitioner is aware of the outstanding amount which is stated in letter dated 12-1-1996 and was cleared by M/s Pioneer Farms Ltd. It is also submitted that the respondent bank has been informing the petitioner regarding the claims being made by M/s. Pioneer Farms Ltd., in respect of the same documents, which she is requesting to be*

returned. Since the loan account was cleared by the third party under a compromise settlement under which the property of M/s Paramathma Poultry has to be transferred to the third party, the respondent bank is constrained to withhold the documents".

4. Heard learned counsel for the petitioner and learned Standing Counsel appearing for Respondent Bank.

5. Learned counsel for the petitioner submits that the loan for which the petitioner deposited title deeds relating to her property has been discharged and therefore, the respondent-bank is under an obligation to release the documents. As seen from the records, the petitioner made representations to the respondent Bank on 27-1-1997 and 5-11-1998 for release of the title deeds. If the respondent bank has any right to withhold the documents, the same has to be communicated to the writ petitioner, so that the writ petitioner can workout her remedies for release of her title deeds.

6. In that view of the matter, I deem it appropriate to direct the respondent Bank to consider the representation of the petitioner dated 27-1-1997 and 5-11-1998 and pass appropriate orders with regard to release of the title deeds deposited by her as a security for the loan granted to M/s Paramathma Poultry Farm within two months from the date of receipt of a copy of this order.

7. Writ Petition is accordingly disposed of. No order as to costs.

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B.Seshasayana Reddy,J

26th October, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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